

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MOUNTAIN HIGHLANDS, LLC,
an Oregon Limited Liability Company,

Plaintiff,

vs.

No. CIV 08-0239 JB/ACT

DAVID B. HENDRICKS, and
MAGNOLIA MOUNTAIN LIMITED
PARTNERSHIP, a Texas limited
partnership,

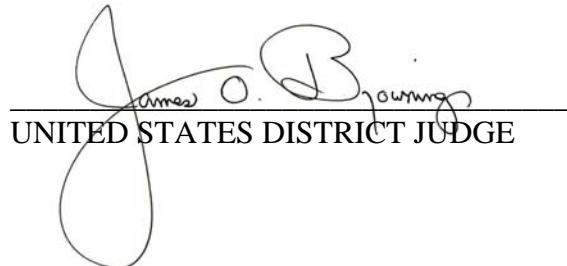
Defendants.

ORDER

THIS MATTER comes before the Court on the Defendants' Motion for Costs and Attorneys' Fees, filed August 14, 2009 (Doc. 188). The Court held a hearing on November 12, 2009. The primary issues are: (i) whether Defendants David B. Hendricks and Magnolia Mountain Limited Partnership ("MMLP") are entitled to attorneys' fees arising from the 2007 litigation based on a provision in the Exchange Agreement to which that litigation related; and (ii) whether the Defendants are entitled to costs for the deposition of Mitchell Brown, a potential witness in this case, and/or the videotaping of the depositions of several deponents. The Court grants the motion in part and denies it in part. The Court will grant the Defendants' request for fees in the amount requested, will grant the Defendants costs for the transcript of the Brown deposition, but will sustain Mountain Highlands' objection to the award of costs for the videotaping of depositions.¹

¹ This Order disposes of the motion at issue. The Court will, however, at a later date issue an opinion more fully detailing its rationale for this decision.

IT IS ORDERED that the Defendant's Motion for Costs and Attorney's Fees is granted in part and denied in part. The Defendant's are awarded: (i) \$8,689.24 in allowable costs; (ii) \$267,039.25 in attorney's fees up through August 13, 2009 plus any additional reasonable fees incurred between August 13, 2009 and the issuance of this order; and (iii) \$21,229.62 in gross receipts taxes on the fees.



UNITED STATES DISTRICT JUDGE

Counsel:

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